

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Antonio D. Tisdale,)	C.A. #4:04-1319-PMD-TER
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
State of South Carolina, and Henry)	
McMaster, Attorney General for South)	
Carolina,)	
)	
Respondents.)	
)	

This matter is before the court upon the magistrate judge's recommendation that respondents' second amended motion for summary judgment be denied with leave to re-file, and that petitioner's motions for summary judgment and for leave to file supplemental pleadings also be denied with the right to re-file. The record includes the report and recommendation of the United States Magistrate Judge made in accordance with this Court's Order of Reference and 28 U.S.C. § 636(b)(1)(B). Because petitioner is pro se, this matter was referred to the magistrate judge.¹

This Court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. §

¹Pursuant to the provisions of Title 28 United States Code, § 636(b)(1)(B), and Local Rule 73.02(B)(2)(c), D.S.C., the magistrate judge is authorized to review all pretrial matters and submit findings and recommendations to this Court.

636(b)(1). No objections have been filed to the magistrate judge's report.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. For the reasons articulated by the magistrate judge, it is **ordered** as follows:

1. Respondents' Second Amended Motion for Summary Judgment [Doc. #29] is **DENIED** with leave to re-file within thirty (30) days from the date of the final order of the South Carolina Supreme Court on the Johnson petition;
2. Petitioner's Motion for Summary Judgment and Motion for Leave to File Supplemental Pleadings [Docs. #57 and #58] are **DENIED** with the right to re-file within thirty(30) days from the date of the final order of the South Carolina Supreme Court on the Johnson petition.

FURTHER ORDERED, that the magistrate judge's report and recommendation is adopted as the order of this Court.

AND IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
United States District Judge

Charleston, South Carolina
February 15, 2007

NOTICE OF APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.